

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

NICHOLAS GRIFFIN, §  
*Plaintiff,* §  
§  
vs. § Case No. SA-21-CV-01150-FB  
§  
COCA-COLA SOUTHWEST §  
BEVERAGES LLC, §  
*Defendant.* §

**SECOND AMENDED SCHEDULING ORDER**

Before the Court is the above-styled and numbered cause of action is Plaintiff's Opposed Motion for Leave to Amend Scheduling Order [#26]. The record reflects that on July 1, 2022, the parties jointly moved to amend the existing scheduling order in this case. The Court granted the motion and directed the parties to submit a proposed second amended scheduling order by July 8, 2022. Rather than submit agreed proposed amended deadlines, Defendant filed a proposed second amended scheduling order [#25] and Plaintiff filed the pending opposed motion for leave to amend. The only difference between the two proposed schedules is that Plaintiff wants to extend the deadline for filing motion for leave to file amended pleadings until October 31, 2022, whereas Defendant wants to keep the existing deadline of March 18, 2022, foreclosing any additional amendments by Plaintiff.

Although Plaintiff filed the motion as opposed and fully briefed the good cause for granting the requested extension, Defendant did not file a response in opposition to the motion on or before the deadline to do so under the Court's Local Rules. *See* W.D. Tex. Loc. R. CV-7(d) (responses to case-management motions due within seven days of the motion's filing). The Court will therefore construe the motion as unopposed and adopt the proposed amended deadlines set forth in Plaintiff's motion. *See id.*

**IT IS THEREFORE ORDERED** that Plaintiff's Opposed Motion for Leave to Amend Scheduling Order [#26] is **GRANTED**.

**IT IS FURTHER ORDERED** that this Second Amended Scheduling Order is issued to control the course of this case:

1. The parties shall file all motions to amend or supplement pleadings or to join additional parties by October 31, 2022.
2. All parties asserting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26 by February 10, 2023. Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26 by March 27, 2023. All designations of rebuttal experts shall be designated within 15 days of receipt of the report of the opposing expert.
3. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within 30 days of receipt of the written report of the expert's proposed testimony, or within 30 days if the expert's deposition, if a deposition is taken, whichever is later.
4. The parties shall complete all discovery on or before April 27, 2023. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in exceptional circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.
5. The parties must mediate this case on or before August 5, 2022, and file a report in accordance with Local Rule 88 after the mediation is completed. Any motion objecting to ADR must be filed no later than June 6, 2022.
6. All dispositive motions shall be filed no later than May 26, 2023. Dispositive motions and responses to dispositive motions shall be limited to 20 pages in length in accordance with Local Rule CV-7. Replies, if any, shall be limited to 10 pages in length.
7. The trial date will be determined at a later date by the Court. The parties shall consult Local Rule CV-16 regarding matters to be filed in advance of trial. At the time the trial date is set, the Court will also set the deadline for filing matters in advance of trial.

**IT IS SO ORDERED.**

SIGNED this 18th day of July, 2022.



The image shows a handwritten signature in black ink, appearing to read "Elizabeth S. Chestney". Below the signature, there is printed text identifying the signer.

ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE